

## **REMARKS**

NOTE! Applicants wish to make note of the current Office Action, to which this paper is a response. Specifically, page 1 of the Office Action refers to claims 1-24 as being pending in the Application, with claims 10-24 being withdrawn from consideration. It is the Applicants' understanding that claims 1-30 were originally pending in the Application, and claims 10-30 were withdrawn from consideration, based on the Examiner making the claims subject to restriction. Accordingly, although the Applicants are responding to this Office Action in part as if the only claims at issue are claim 1-9, the Applicants request clarification of this issue regarding the claims, and further request additional time to respond if deemed necessary. Whether or not claims 25-30 are currently in the Office Action, is somewhat confusing.

In the Office Action, the Examiner rejected each of claims 1-9 based on 35 USC §§ 102(b), 103, and/or 112. The Applicants respectfully traverse these rejections, based on the amended claims and the following remarks.

Applicants respectfully traverse the rejection of claims 1-9 under 35 USC § 112, second paragraph, as being indefinite, as such rejection can be applied to the claims as amended.

Claims 1-9 have been amended as follows:

1. Claim 1 has been amended so as to incorporate the subject matter of originally filed claims 1, 6 and 7.
2. Claim 2 has been amended so as to expressly define the retracting of the welding means as being cyclical.
3. Claims 3 and 4 have been cancelled.
4. Claim 5 has been amended so as to clarify the piercing of the product and the concept that the advancing of the device for wrapping bands comprises the product piercing, and

winding of the band around the product and the anvil means is executed through the aperture formed by the piercing.

5. Claims 6 has been amended so as to more expressly define the hologram being connected to the band, and expressly defining one of a group of means for connecting the hologram to the band.

6. Claim 7 has been amended so as to expressly define the implementation method for authentication of the food markings as being selected from a group.

Applicants respectfully submit that none of the subject matter set forth in the claims as amended is new matter, and all of the amendments find full and adequate support in the application as originally filed.

Returning to the Section 112 rejection, claim 1 no longer recites a limitation of "winding (wrapping)." Also claim 1 no longer recites "band (also known as "cable tie")." With respect to the Examiner's concern that the specification does not provide a specific definition for a cable tie or a band, the Applicants note that the term "cable tie" has been deleted from the claims. With respect to the term "band," the Applicants believe that such bands are appropriately identified as plastic bands 840, 960 within the specification.

The Examiner also stated that claims 5 and 6 also have an indefinite recitation of a "cable tie." The references to a "cable tie" have been deleted from claims 5 and 6.

In view of the amendments to the claims and the foregoing, Applicants respectfully submit that claims 1, 2 and 5-7 are now in conformance with all requirements of Section 112.

The Applicants respectfully traverse the rejection of claims 1-3 and 5 under 35 USC § 102(b) as being anticipated by the U.S. Patent to Wenk 2,183,799.

As earlier stated, claim 1 has been amended to as to incorporate the subject matter of originally filed claims 1, 6 and 7. The Wenk patent discloses a seal device for tagging meats, poultry, and other food products. In view of the amendments to claim 1, claim 1 now defines the combination of the use of an anvil means coupled to a surface of the product, and the feeding of a hologram to a location between the tip of a welding means and the band. The hologram is welded to the band. Applicants respectfully submit that in view of the foregoing and other elements which are now defined in claim 1, claim 1 is not anticipated by the Wenk patent.

Claim 3 has been cancelled. Claims 2 and 5 are directly dependent from claim 1 as amended, and incorporate all limitations thereof. For the reasons previously set forth herein that claim 1 is not yet anticipated by Wenk, neither claim 2 nor claim 5 is anticipated by Wenk.

The Examiner has rejected claim 4 under 35 USC § 103(a) as being unpatentable over Wenk in view of the U.S. Patent Swett 3,021,360, Morgam Holdings (France 2,192,732) and Diamond et, al (Belgium - 839,165). In view of the cancellation of claim 4, the Applicants respectfully submit that the rejection is no longer applicable.

Applicants respectfully traverse the rejection of claim 5 under 35 USC §103(a) as being unpatentable over the references applied to claim 4, and further in view of the U.S. patent to Wescombe 6,226,911.

The Wenk patent has been previously described. The Swett patent is directed to an elongated paper strip used as a label for marking fowl or the like. The French patent appears to possibly teach a general process for attempting to obtain relatively high speed production of meats. The Diamond et. al Belgium patent appears to also teach an automatic production process. The Westcombe patent appears to generally teach the use of a planar tag having an

attachment portion and a body portion. A tool is utilized for anchoring the tag to an object, while the tag is secured to the object.

Claim 5, as amended, is directly dependent from claim 1. Claim 1, as earlier stated, has been amended so as to incorporate the subject matter of originally filed claims 1, 6 and 7. Applicants respectfully submit that the combination of patents used by the Examiner to reject claim 5 would not render claim 1 as amended unpatentable over Section 103(a). For example, the combination of patents does not teach or suggest the feeding of a hologram to a location between the tip of a welding means and the band. There is also no suggestion of using an anvil means which is extracted from between the product and the band upon completion of the welding of the hologram to the band. For these and other reasons, the Applicants respectfully submit that claim 5, as amended, and being dependent upon claim 1, as amended, is patentable over the alleged combination of patents cited against claim 5.

The Applicants respectfully traverse the rejection of claim 6 as being unpatentable under 35 USC § 103(a) over the references as the Examiner has applied them to claim 4 and further in view of the U.S. Patent to Ruell 4,171,766.

The Ruell patent teaches an identification card with a holographic security safeguard in the form of a large area hologram which is recorded on a layer deposited on a face of an identification card. Claim 6 is directly dependent from claim 1, as amended. Accordingly, claim 6 includes all of the subject matter of amended claim 1, as well as the subject matter expressly defined in claim 6. The Applicants respectfully submit that the combination of patents cited against claim 4, in addition to the Ruell patent, does not teach or suggest Applicants' invention as defined in claim 1 as amended. That is, and solely as an example, the combination of patents cited by the Examiner does not teach or suggest the feeding of a hologram to a

location between the tip of a welding means and a band. The alleged combination also does not teach or suggest extracting the anvil means from between the product and the band, following welding of the hologram to the band.

Further, Applicants respectfully submit that the Ruell patent cannot be tenably combined with the combination of patents cited against claim 4. That is, the Applicants submit that the hologram identification card described by Ruell could not be applied to the types of materials described by the combination of patents cited against claim 4 for purposes of marking food products.

In view of all of the foregoing, Applicants respectfully submit that claim 6, as amended, and being dependent from claim 1, as amended, is patentable over the references cited against claim 6.

Applicants respectfully traverse the rejection of claim 7 under 35 USC § 103(a) as being unpatentable over the references as applied to claim 6 and further in view of the following U.S. patents: Tinklenberg et. al, U.S. Patent No. 6,058,639; Spencer et. al, U.S. Patent No. 4,770,729; Hollander, U.S. Patent No. 4,227,614; and Fukami, U.S. Patent No. 5,799,375.

First, Applicants respectfully submit that the linkage of all of these patents together is untenable as a basis for a claim of obviousness under Section 103(a). A person of ordinary skill in the art with respect to the marking of food products is not going to consider obvious a combination of the substantial number of patents cited against claim 7.

Further, Applicants respectfully submit that a number of the patents cited against claim 7 cannot be tenably combined with the patents cited against claim 6 or claim 4. In reviewing the subject matter of these patents, Applicants are unaware of any suggestion in any of

the patents to combine the same with any of the other patents. For all of these reasons, the Applicants submit that the extensive combination of patents cited against claim 7 is untenable.

Further, claim 7, as amended, is directly dependent from claim 1, as amended. Applicants question whether there is any teaching in the entirety of the combination of patents cited against claim 7 which define the concept that the retracting of the welding means is cyclical, in combination with the concept of extracting the anvil means from between the product and the band after a hologram which has been fed to a location between the tip of a welding means and the band is welded to the band.

For all of the foregoing reasons, Applicants respectfully submit that claim 7 is patentable over the alleged combination of patents cited by the Examiner.

With respect to claims 8 and 9, each of these claims has been cancelled, along with claims 10-30.

In view of all of the foregoing, the Applicants respectfully submit that claims 1, 2, 5, 6 and 7, as amended, are now in condition for allowance and early notification of allowability is respectfully requested.


Should any questions arise in connection with the above, please contact Thomas L. Lockhart at the telephone number of 616/336-6000.



Respectfully submitted,

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Dated: 3/30/2009

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